

Agency 122

Pooled Money Investment Board

Articles

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Article 1.—DEFINITIONS

122-1-1. Definitions. As used in these regulations: (a) the words and phrases defined by K.S.A. 75-4201 and amendments thereto shall have the meaning ascribed to them in such statute; and

(b) “delivery versus payment” means the transfer or payment of funds simultaneous with or after the delivery of securities purchased with such funds. (Authorized by K.S.A. 1994 Supp. 75-4232; implementing K.S.A. 1994 Supp. 75-4222 and K.S.A. 75-4232; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995.)

Article 2.—DEPOSITORY BANKS

122-2-1. Qualifications for depository banks. (a) State moneys shall be deposited only in state financial institutions which have been determined to meet qualifications in this regulation for depository banks. Each depository bank shall be a state financial institution which has been determined by the board:

- (1) to have demonstrated credit-worthiness;
- (2) to have executed a security agreement with the board; and
- (3) to have executed a custodial agreement with the board.

(b) Moneys to be deposited in any state financial institution shall not be deposited until the financial institution's board of directors has executed and adopted the security agreement and custodial agreements required under subsection (a). Alternatively, moneys which may be invested in state financial institutions may be invested with such financial institutions in the form of a repurchase agreement wherein the state takes delivery of the underlying securities. (Authorized by

K.S.A. 1994 Supp. 75-4232; implementing K.S.A. 1994 Supp. 75-4205, 75-4208, K.S.A. 1994 Supp. 75-4209, as amended by 1995 SB 9, Sec. 2, K.S.A. 1994 Supp. 75-4217, and 75-4218; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995.)

122-2-2. Collateral. (a) Each state bank account shall be fully collateralized at all times based on securities, which may be accepted or rejected by the pooled money investment board, under K.S.A. 75-4201(k), and amendments thereto. Such securities shall be priced on a market value basis. The aggregate market value of the securities shall be sufficient to equal the outstanding amount of state funds deposited, plus accrued interest on the state funds, less federal deposit insurance coverage.

(b) The qualified depository institution shall ensure that deposits and accrued interest are always sufficiently collateralized. Sufficiency of collateral values shall be validated by the treasurer.

(c) Each qualified depository institution depositing securities with a custodial bank shall enter into a written custodial agreement with the custodial bank and the board for the safekeeping of the securities.

(d) Collateral based on corporate surety bonds as provided under K.S.A. 75-4201 shall be subject to the following requirements.

(1) The surety bonds shall be approved by the Kansas commissioner of insurance and shall be in a standard format approved by the treasurer.

(2) The issuer of the surety bond shall be admitted and licensed to issue surety bonds in Kansas.

(3) The treasurer shall be designated as the insured public depositor.

(4) The issuer and the qualified depository in-

stitution shall notify the treasurer by certified or registered mail no fewer than 90 days before non-renewal and no fewer than 45 days before cancellation of a surety bond.

(5) The ability of the issuer to pay claims shall be rated and shall remain rated in the highest rating category of one of the nationally recognized rating agencies, as specified by written policy of the board. Within 48 hours of discovery of a downgrade of an issuer by a rating agency or notice of financial regulatory action by any jurisdiction in which the issuer is licensed, the issuer shall notify the treasurer by certified or registered mail.

(6) The amount of collateral provided in the form of surety bonds by a qualified depository and the amount of total state deposits that may be collateralized in the form of surety bonds shall be limited as provided by written policy of the board.

(7) The issuer shall send quarterly reports to the treasurer, listing all Kansas banks that have purchased a surety bond as collateral for deposits, the insured amount covering deposits of the treasurer, and the total insured amount per qualified depository institution in the state of Kansas, noting the retainage and reinsured amounts for each qualified depository institution.

(e) The following requirements shall apply to collateral based on a letter of credit issued by a United States sponsored enterprise that under federal law may be accepted as security for public funds.

(1) The letter of credit shall be in a format approved by the treasurer.

(2) The treasurer shall be designated as the irrevocable and unconditional beneficiary of the letter of credit.

(3) The issuer and the qualified depository institution shall notify the treasurer by certified or registered mail no fewer than 45 days before cancellation or nonrenewal of a letter of credit.

(4) The securities of the issuer shall be rated, and shall remain rated, in the highest rating category of one of the nationally recognized rating agencies, as specified by written policy of the board. Within 48 hours of discovery of a downgrade of an issuer by a rating agency, the issuer shall give notice to the treasurer by certified or registered mail.

(5) The issuer shall not provide letters of credit for any qualified depository institution in an amount that exceeds 10% of the issuer's capital and surplus. (Authorized by K.S.A. 1996 Supp. 75-4232; implementing K.S.A. 75-4201, as amended

by L. 1997, Ch. 180, §21 and K.S.A. 1996 Supp. 75-4218, as amended by L. 1997, Ch. 180, §27; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997; amended Jan. 16, 1998.)

Article 3.—INVESTMENT OF STATE MONEYS

122-3-1. Investment principles. (a) All state moneys which are available for investment shall be invested by the director of investments in a manner which will:

(1) be consistent with the prudent person standard established under K.S.A. 1995 Supp. 75-4209, and amendments thereto; and

(2) conform to provisions of applicable laws governing the investment of state moneys.

(b) The primary objectives of the board, in the following priority order, shall be considered by the director of investments in evaluating potential and existing investments.

(1) Safety. The foremost objective of investments shall be safety of the principal. Each investment of state moneys shall be undertaken in a manner that seeks to ensure preservation of capital.

(2) Liquidity. The second objective shall be to maintain sufficient liquidity to enable the state to meet all operating requirements which might be reasonably anticipated and meet the daily cash flow demands of the state.

(3) Return on investment. Each investment shall be designed with the objective of attaining a reasonable rate of return consistent with the above objectives.

(c) The investment portfolios shall be diversified so as to minimize exposure of state moneys to losses due to issuer defaults, market price changes, technical complications leading to temporary lack of liquidity, or other risks resulting from an overconcentration of assets in a specific maturity, a specific issuer, a specific geographical distribution, or a specific class of securities. (Authorized by and implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-2. Portfolio management. Following the primary objective of preservation of capital, each investment portfolio shall be actively managed to take advantage of market opportuni-

ties. In so doing, negotiable securities may be sold prior to their maturity for the purpose of:

- (a) providing liquid funds as needed for cash flow purposes;
- (b) enhancing portfolio returns; or
- (c) restructuring maturities to increase yield, decrease risk or both. (Authorized by K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26, and K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, Sec. 26, and K.S.A. 1995 Supp. 12-1677a, as amended by L. 1996, Ch. 254, Sec. 4; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-3. Investment instruments; requirements. (a) Except as otherwise authorized by statutes applicable to a specific fund that is created by statute or by bond documents, investments of state moneys shall be limited to those instruments permitted under K.S.A. 1995 Supp. 75-4209, and amendments thereto.

(b) Repurchase agreements may be made in accordance with K.S.A. 1995 Supp. 75-4209(a)(2)(B) and amendments thereto. Reverse repurchase agreements may be made in accordance with K.S.A. 1995 Supp. 75-4212a, and amendments thereto.

(c) Such repurchase and reverse repurchase agreements may be made only with Kansas banks and dealers that have entered into fully executed master repurchase agreements on file with the board.

(d) Except as otherwise authorized by the board, the market value of the securities underlying any repurchase agreement shall be maintained with a market value of at least 102% of the amount of the repurchase agreement. If the market value of the securities falls below 102% of the amount of the repurchase agreement, additional securities shall be required to attain full security unless otherwise authorized by the board. (Authorized by and implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-4. Maturity. (a) In scheduling the maturities of investment portfolios, projected cash flows shall be considered.

(b) Except as authorized by statute for specific investments, investment maturities of state moneys shall be limited to the lesser of:

(1) four years, pursuant to K.S.A. 1995 Supp. 75-4209(g); or

(2) the maturity date for securities obtained through repurchase agreements. (Authorized by K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26 and K.S.A. 1995 Supp. 12-1677a, as amended by L. 1996, Ch. 254, Sec. 4; implementing K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, Sec. 17, K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26, and K.S.A. 12-1677a, as amended by L. 1996, Ch. 254, Sec. 4; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-5. Investment transactions; requirements for brokers and dealers. (a) Investment transactions shall be conducted only with qualified institutions. Qualified institutions shall be limited to:

- (1) qualified depository banks;
- (2) the federal reserve bank in Kansas City, Missouri;
- (3) primary government securities dealers, as defined in K.S.A. 75-4209 and amendments thereto;
- (4) broker-dealers engaged in the business of selling government securities which are registered in compliance with section 15 or 15C of the securities exchange act of 1934 and K.S.A. 17-1254, and amendments thereto; or
- (5) direct issuers or dealers of qualified commercial paper.

(b) Before conducting any transactions, each broker-dealer conducting investment transactions with the board shall document compliance with registration requirements by providing to the board:

- (1) proof of certification by the national association of security dealers;
- (2) proof of Kansas registration; and
- (3) upon request of the board or its designee:
 - (A) a copy of the broker-dealer's most recent, audited annual financial statement; and
 - (B) a copy of the broker-dealer's most recent, unaudited quarterly financial statement. (Authorized by and implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26 and K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, Sec. 17; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-6. Competitive selection of investment instruments. Each security transaction, other than directly-issued instruments, securities in syndicate or specially bid or offered securities, shall be executed through a competitive process involving solicitation of bids or offers from qualified institutions as set out in K.A.R. 122-3-5. When purchasing a security, the offer which provides the highest anticipated current and future rate of return and which meets the investment objectives of the portfolio shall be accepted. When selling a security, the bid which generates the highest sales price shall be accepted. (Authorized by and implementing K.S.A. 1994 Supp. 75-4232; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995.)

122-3-7. Safekeeping and custody. All security transactions entered into by the director of investments pursuant to K.S.A. 75-4209(a)(2) and amendments thereto, including securities underlying repurchase agreements, shall be conducted on a delivery versus payment basis. Securities shall be held by the treasurer or a third-party custodian designated by the treasurer, as evidenced by safekeeping receipts held by the treasurer or a third-party custodian. (Authorized by and implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-8. Conflicts of interest. (a) Except upon unanimous vote of the board members voting, no investment of any state moneys shall be made when one or more members, officers or employees of the board has personal business activity that:

- (1) conflicts with proper execution of that investment; or
- (2) could impair the ability of that member, officer, or employee to make an impartial decision regarding that investment.

(b) Each investment officer and investment analyst appointed by the board shall disclose to the board any material financial interest in any financial institution that conducts business within the state and any personal financial or investment position that is related to the performance of any investment of the board. Each investment officer and investment analyst shall subordinate the officer's or analyst's personal investment transactions to those of the board, particularly with regard to timing of purchases and sales. (Authorized

by and implementing K.S.A. 1994 Supp. 75-4232; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995.)

122-3-9. Performance monitoring. The performance of each investment portfolio shall be continually monitored and evaluated by the director of investments using investment strategies developed under the investment principles of K.A.R. 122-3-1. External comparative performance reviews shall be conducted as the board deems necessary. Summary reports shall be provided on a monthly basis for the board and annually for the legislature as required by statute. (Authorized by and implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-10. Chief investment officer; qualifications. (a) A director of investments shall be appointed by the board. The director of investments shall be responsible for planning, directing and managing the state moneys investment programs under the direction of the board in accordance with applicable statutes, rules and regulations, and policies of the board.

(b) The director of investments shall meet qualifications established by the board with respect to:

- (1) education and training in a finance-related field;
- (2) experience as an investment or trust officer for a financial institution, association or corporation, or experience in a finance-related field;
- (3) experience in money market and fixed-income investments; and

(4) supervisory experience. (Authorized by K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; implementing K.S.A. 1995 Supp. 75-4222, as amended by L. 1996, Ch. 254, Sec. 25, and 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-11. Commercial paper. (a) The director of investments may invest up to 50 percent of the pooled money investment portfolio in the types of commercial paper authorized by K.S.A. 1995 Supp. 75-4209(a)(2)(E), as amended by L. 1996, Ch. 254. No more than 10 percent of the pooled money investment portfolio shall be invested in commercial paper of any single business

entity. The limitations of this subsection shall be applicable only at the time investments are made in commercial paper, and such limitations shall not be construed to require the sale of any commercial paper properly acquired.

(b) By written and published policies, the above limitations on investments in commercial paper may be further restricted by the board.

(c) For purposes of computing the limitation on investments in commercial paper, the pooled money investment portfolio shall be comprised solely of investments made pursuant to subsection (a), (c) and (d) of K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, and K.S.A. 1995 Supp. 75-4262, including interest receivable on such investments. (Authorized by and implementing K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, Sec. 17; effective, T-122-6-19-96, June 19, 1996; amended, T-122-10-1-96, Oct. 1, 1996; effective Jan. 24, 1997.)

Article 4.—MUNICIPAL INVESTMENT POOL

122-4-1. Municipal investment pool; earnings. (a) All participants' earnings on investments in the municipal investment pool shall be calculated using the rate factors that are determined and quoted each day. Each participant's earnings shall be credited to the participant's account no later than the last calendar day of the month.

(b) A quoted rate factor shall be specified for each investment option available to participants. The rate factor shall be determined by the director of investments, subject to directives of the board. In determining the rate factor for each such investment option, consideration shall be given to the duration of the deposits, the interest rates available from competing investments available to participants, yield factors and other factors

deemed relevant by the board. The quoted rate factors shall be net of the administrative fee authorized by section 1 of Chapter 254 of the 1996 *Session Laws of Kansas*. (Authorized by and implementing K.S.A. 1995 Supp. 12-1677a, as amended by L. 1996, Ch. 254, Sec. 4; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

Article 5.—INVESTMENT ACCOUNTS IN QUALIFIED BANKS

122-5-1. Money available for investment. (a) In order to make state moneys available for investment pursuant to subsection (a)(1) of K.S.A. 1995 Supp. 75-4209 and amendments thereto, the director of investments shall periodically, and at least annually, review and determine the liquidity needs of the state, the varying maturities of the investment accounts to be offered, and the amount of state moneys to be invested in each of the maturities offered.

(b) In conducting the review and making the determinations, consideration shall be given to the following factors:

- (1) historical state cash-flow trends;
 - (2) anticipated periods of peak disbursements and revenue receipts;
 - (3) maturities of existing investments;
 - (4) anticipated future expenditures and receipts;
 - (5) contingencies for unanticipated obligations;
 - (6) unforeseeable occurrences or unascertainable effects of foreseeable occurrences; and
 - (7) general economic conditions of the state.
- (Authorized by K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; implementing K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, Sec. 17; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)